

**EXHIBITS 1–6
TO DECLARATION OF JEFFREY B.
COOPERSMITH**

EXHIBIT 1

In re Arizona Theranos, Inc. Litigation

Videotaped Deposition of
DR. JAY ROSAN

May 16, 2019

*****CONFIDENTIAL*****



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Dr. Jay Rosan

		Page 1	Page 2
1	UNITED STATES DISTRICT COURT	1 A P P E A R A N C E S :	
2	FOR THE DISTRICT OF ARIZONA	2	
3	CIVIL ACTION NO. 2:16-cv-2138-HRH	3 LIEFF CABRASER HEIMANN & BERNSTEIN	
4	- - -	4 BY: MELISSA A. GARDNER, ESQUIRE	
5	:	5 275 Battery Street, 29th Floor	
6	IN RE ARIZONA THERANOS, INC.: LITIGATION :	6 San Francisco, CA 94111-3339	
7	- - -	7 415-956-1000	
8	***CONFIDENTIAL***	8 Mgardner@lchb.com	
9	Videotaped deposition of DR. JAY ROSAN,	9 Attorneys for Consumer Plaintiffs	
10	taken pursuant to notice, held in the LAW OFFICES	10 KELLER ROHRBACK, LLP	
11	OF DUANE MORRIS, LLP, 30 South 17th Street,	11 BY: TANYA KORKHOV, ESQUIRE	
12	Philadelphia, Pennsylvania, on Thursday, May 16,	12 1140 Avenue of the Americas	
13	2019, beginning at approximately 10:20 a.m.,	9 Ninth Floor	
14	before Robin A. Vance, a Certified Court Reporter	10 New York, NY 10036	
15	and Notary Public for the states of New Jersey,	11 646-380-6690	
16	Pennsylvania and Delaware.	12 Tkorkhov@kellerrohrback.com	
17	- - -	13 Attorneys for Consumer Plaintiffs	
18		14 DUANE MORRIS, LLP	
19		15 BY: STEPHEN H. SUTRO, ESQUIRE	
20		16 Spear Tower	
21		17 One Market Plaza, Suite 2200	
22	Reported By:	18 San Francisco, CA 94105-1127	
23	Robin A. Vance, CCR	19 415-957-3008	
24	CCR-NJ License No. XI 02131	20 Shsutro@duanemorris.com	
25	Job No. 10054876	21 Attorneys for Dr. Jay Rosan	
		22 DAVIS WRIGHT TREMAINE, LLP	
		23 BY: STEPHEN M. RUMMAGE, ESQUIRE	
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		23 Attorneys for Ramesh Balwani	
Page 3		Page 4	
1	APPEARANCES CONTINUED:	1 I N D E X	
2		2 WITNESS	PAGE
3	SIDLEY AUSTIN, LLP	3 DR. JAY ROSAN	
4	BY: KRISTEN R. SEEGER, ESQUIRE	4 Examination by	
5	LAWRENCE P. FOGEL, ESQUIRE	5 MS. GARDNER	8, 328
6	One South Dearborn	5 MR. RUMMAGE	228
7	Chicago, IL 60603	6	
8	312-853-7450	7 - - -	
9	312-853-6892	7 EXHIBITS	
10	Kseeeger@sidley.com	8 No.	DESCRIPTION PAGE
11	Lawrence.fogel@sidley.com	9 Exhibit 214	Subpoena 9
12	Attorneys for Walgreens	10 Exhibit 215	Document - Bates WG006129 27
13	Also Present: Raymond Lerro, Videographer	11 Exhibit 216	Document - Bates WG000368 60
14		12 Exhibit 217	Email Chain - Bates WG031043 80
15		13 Exhibit 218	Email Chain - Bates WG000572 90
16		14 Exhibit 219	Meeting and Agenda Minutes Bates WG039882 112
17		15 Exhibit 220	Email - Bates WG005122 125
18		16 Exhibit 221	Email - Bates WG000058 129
19		17 Exhibit 222	Theranos Meeting Minutes Bates WG000059 130
20		18 Exhibit 223	Email - Bates THER-AZ-06086006 147
21		19 Exhibit 224	Email Chain - Bates WG006181 168
22		20 Exhibit 225	Email/Executive Meeting Notes Bates WG018950 178
23		21 Exhibit 226	Email - Bates WG031844 189
24		22 Exhibit 227	Email - Bates WG006173 191
25		23 Exhibit 228	Email - Bates WG001117 196

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<p style="text-align: right;">Page 105</p> <p>1 When you say you had a machine, you don't know 2 what Theranos would have called it, right? 3 A. No. 4 Q. Okay. And can you briefly describe 5 how you would use that machine? 6 A. I would draw blood studies from a 7 finger-stick of a person, type that into the 8 cartridge, put the cartridge in the machine, and 9 push a button that said on. 10 Q. And then test results would be 11 generated, and I think you earlier said sent to 12 you by e-mail? 13 A. Yes, correct. 14 Q. Okay. Did you need to calibrate that 15 device at any time? 16 A. I don't -- I don't believe so. 17 Q. Did you get written procedures for 18 operating the device? 19 A. Yes. It wasn't that hard to operate. 20 Q. How many cartridges did you have? 21 A. I don't remember. 22 Q. What tests did the device that you had 23 run? 24 A. If I remember, it did sugar test, a 25 glucose test, influenza test, I think sodium,</p>	<p style="text-align: right;">Page 106</p> <p>1 potassium. I don't remember what else. 2 Q. Did you need to perform any kind of 3 quality control procedures on the device? 4 A. No. 5 Q. How long did you have it? 6 A. I don't remember. 7 Q. Do you think it was more than a year? 8 A. Around a year. 9 Q. Did anybody service the device during 10 the time that you had it? 11 A. No. 12 Q. Did Miss Holmes make any 13 representations to you about pharmaceutical 14 companies and Theranos? 15 A. I'm sorry, I couldn't hear what you 16 were saying. 17 Q. Did Miss Holmes make any 18 representations to you about pharmaceutical 19 companies and Theranos? 20 A. Yes. 21 Q. And what were those representations? 22 A. That the pharmaceutical -- 10 of the 23 15 biggest pharmaceutical companies were using 24 their technology. 25 Q. Did you believe those representations?</p>
<p style="text-align: right;">Page 107</p> <p>1 A. Yes. 2 Q. Do you believe them today? 3 A. I'm not sure. 4 Q. Did you take any steps to confirm 5 those representations? 6 A. I asked for documentation and I got 7 letters from pharmaceutical companies showing 8 documentation. 9 Q. Did you receive 10 letters? 10 A. No. 11 Q. Were the pharmaceutical -- did they -- 12 did the letters make any reference to using 13 Theranos in a clinical setting? 14 A. Yes. 15 Q. What did they say? 16 A. I think they're one of the 17 documents -- one of the forms here. I don't 18 remember off the top of my head, but basically 19 saying they were using Theranos machines, devices 20 to run tests for clinical trials. 21 Q. Did you speak with any of the authors 22 of the letters? 23 A. No. 24 Q. Do you know if anybody at Walgreens 25 spoke with the authors of the letters?</p>	<p style="text-align: right;">Page 108</p> <p>1 A. I don't really know. 2 Q. Are you certain today that the letters 3 actually came from pharmaceutical companies? 4 A. No. 5 Q. I'm going to hand you an exhibit that 6 has previously been marked as 148. Doctor, 7 you've seen this e-mail before, correct? 8 A. Yes. 9 Q. There's a reference in an e-mail 10 from -- so, it's Exhibit-148. And in the second 11 sentence of the lowermost paragraph on the page, 12 there's a reference that says, "Sunny and he went 13 at it a little back in the early days." 14 And I'm going to ask, is Sunny 15 here, Sunny Balwani? 16 A. Are you asking me a question? I'm 17 sorry. 18 Q. Yeah. 19 A. Go ahead. 20 Q. Is the reference to Sunny in this 21 e-mail, Sunny Balwani? 22 A. Yes. 23 Q. And is the reference to he in this 24 e-mail Kevin Hunter? 25 A. Yes.</p>

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1 on like an official tour where you were being 2 pointed out specific things or were you just 3 walking around? 4 A. Primarily walking around. 5 Q. You said when you went into the lab 6 one time, you went with Mr. Finnegan; is that 7 right? 8 A. I believe so, yes. 9 Q. Do you know whether he went more than 10 once? 11 A. I don't know. 12 Q. And my recollection is that you 13 testified that Mr. Finnegan had worked for a 14 blood testing company; is that right? 15 A. Yes. 16 Q. What company was that? 17 A. I think it was Quest, but I'm not 18 sure. 19 Q. All right. And as between the two of 20 you, did you have an understanding as to who was 21 more familiar with blood testing processes and 22 laboratory processes? 23 A. Yes. 24 Q. Who? 25 A. He.	1 Q. He was more familiar? 2 A. Yes. 3 Q. Do you recall whether he asked 4 questions when you went through the lab? 5 A. I don't recall. 6 Q. Do you know where he is today? 7 A. He's -- I forget. 8 Q. Okay. I also want to talk a little 9 bit about the devices that were provided to 10 Walgreens. And I said that in plural, so maybe 11 I'm presupposing something. Did Walgreens have 12 more than one device that it was able to run 13 cartridges on? 14 A. Theranos devices? 15 Q. Yes. 16 A. Two. 17 Q. Two. And I believe you testified to 18 Ms. Gardner that you weren't sure when you got 19 those; is that right? 20 A. Correct. 21 Q. Do you recall why you got those? 22 A. To do samples. 23 Q. Was that at your request? 24 A. Yes. 25 Q. And who did you make that request to?
Page 235	Page 236
1 A. Either Elizabeth or Sunny. 2 Q. And they accommodated it? 3 A. Yes. 4 Q. And when you got the devices, were any 5 restrictions placed on you in what you could do 6 with them? 7 A. Just the tests that I had cartridges 8 for. 9 Q. All right. And how did you get the 10 cartridges? 11 A. From Theranos. 12 Q. Did you -- what would happen when you 13 ran out? 14 A. I would order more. 15 Q. And did they give you more? 16 A. Yes. 17 Q. Okay. Did you request specific 18 cartridges? 19 A. No. 20 Q. In other words -- okay. So, you just 21 took whatever tests it was that they sent you? 22 A. Yes. 23 Q. And you understood that the cartridges 24 could only do specific assays, correct? 25 A. Yes.	1 Q. And that would be limited by the 2 reagents that were on the cartridges? 3 A. Correct. 4 Q. Did you ever have any concerns about 5 the cartridges that were sent to you? 6 A. No. 7 Q. So, where exactly were the two 8 machines located, if you can recall? 9 A. One was in my office and one was in 10 Deerfield. 11 Q. And Deerfield is Walgreens 12 headquarters; is that right? 13 A. Yes. 14 Q. So, when you say your office, do you 15 mean physically the -- the four corners that you 16 sat within, or just generally within the same 17 office space that you shared with others? 18 A. No, in my office, my physical office. 19 Q. In your physical office. And how 20 often did you use it? 21 A. I don't remember. 22 Q. Okay. How often did you test 23 yourself? 24 A. Occasionally. 25 Q. And what does occasionally mean in

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1 that context?

2 A. In the beginning I -- probably every
3 couple weeks.

4 Q. And when you say "in the beginning,"
5 define for me --

6 A. When I first had it.

7 Q. Okay. Is that over a period of
8 several months that you did it every couple of
9 weeks?

10 A. No. In the beginning, first month or
11 so.

12 Q. Okay. And by the way, when they
13 arrived, how were they set up?

14 A. I don't understand the question.

15 Q. Well, let me kind of make it more
16 fundamental. How did they arrive?

17 A. They came by UPS.

18 Q. In a box?

19 A. In a box.

20 Q. Who unpacked it?

21 A. Me.

22 Q. Who set it up?

23 A. Me.

24 Q. And what instructions did you have to
25 set it up?

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1 A. I -- if I'm not mistaken, there was an
2 instruction sheet.

3 Q. And so, just kind of like when you get
4 something from Ikea, you open the box and you
5 follow the instruction sheet and set it up?

6 A. Easier than Ikea.

7 Q. Easier than Ikea. That's a low bar.

8 A. I --

9 MR. SUTRO: I don't know.

10 MS. SEEGER: Ikea is hard.

11 MR. RUMMAGE: I know, that's why I
12 said it.

13 THE WITNESS: That's why he's
14 right.

15 MR. RUMMAGE: It's a low bar.

16 BY MR. RUMMAGE:

17 Q. Okay. And do you know how the one
18 that went to Deerfield was delivered?

19 A. Same.

20 Q. Do you know who set that up?

21 A. I think it was Kim Romanski.

22 Q. Okay. And do you know where it was in
23 Deerfield?

24 A. In a cubicle.

25 Q. Did you ever use that?

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1 A. Yes.

2 Q. And what did you use it for?

3 A. Tests.

4 Q. On who?

5 A. Different people.

6 Q. On yourself?

7 A. No.

8 Q. So, the one in Deerfield you never
9 tested yourself?

10 A. Correct.

11 Q. And were you responsible for ordering
12 cartridges when they ran out in the Deerfield
13 machine?

14 A. No.

15 Q. Who did that, do you know?

16 A. Kim.

17 Q. Kim. By the way, did -- did they ever
18 turn you down when you asked for cartridges?

19 A. No.

20 Q. Do you recall what tests or assays you
21 ran?

22 A. No.

23 Q. Do you recall how many different types
24 of cartridges you ran over time?

25 A. I think there were three.

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1 Q. Three different types?

2 A. (Indicating).

3 Q. You're nodding your head yes?

4 A. Yes.

5 Q. Okay.

6 A. Sorry.

7 Q. Just as a reminder?

8 A. Yes, sorry.

9 Q. Okay. And just for my information,
10 sometimes, as I understand it, blood tests
11 essentially are just a yes or no value, sometimes
12 they return numeric values. You know what I
13 mean?

14 A. Yes.

15 Q. And did the tests that you ran on the
16 device, did some of them return numeric values?

17 A. Yes.

18 Q. And did some of them return yes or no
19 values?

20 A. Yes.

21 Q. All right. And by the way, all of
22 these tests that you ran on this device, let's
23 start first with your device, the one that was in
24 your office, you did that without a Theranos
25 employee present?

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1	A. Yes.	1	A. Yes.
2	Q. And did you ever have, in the course	2	Q. And again, to stress, Theranos didn't
3	of running those tests, anything occur that made	3	tell you that you couldn't run tests more
4	you doubt the viability of the technology?	4	frequently than X number of times a week; is that
5	A. No.	5	right?
6	Q. And do you know whether the tests that	6	A. No.
7	were run in Deerfield were run without a Theranos	7	Q. They didn't put any limitation on
8	employee present?	8	that?
9	A. There was no Theranos employee.	9	A. Except for the number of cartridges.
10	Q. And did you ever get reports from your	10	Q. Exactly. And I'm not sure I asked
11	colleagues in Deerfield that, in running the	11	this, but did you ever ask for cartridges for a
12	tests on the device, they were concerned about	12	specific test or assay?
13	the viability of the technology?	13	A. No.
14	A. No.	14	Q. Is there any particular reason why
15	Q. So, can I sum up fairly and say that	15	not?
16	the experience you had in running tests on the	16	A. Tests -- cartridges were given to me,
17	devices that Walgreens had was a positive	17	I didn't -- I didn't see the need for that
18	experience?	18	request.
19	MS. GARDNER: Objection.	19	Q. They seemed satisfactory to you?
20	THE WITNESS: There were -- there	20	A. Yes.
21	were no problems.	21	Q. And do you know, did any other
22	BY MR. RUMMAGE:	22	Walgreens executives have tests run on these two
23	Q. There were no problems. Did it	23	machines?
24	reinforce your view of the viability of the	24	A. Oh, yes.
25	technology?	25	Q. Who else, if you can recall?
	Page 243		Page 244
1	A. A whole series of people. I don't	1	Q. And what about the test results for
2	recall specifically who.	2	the Deerfield unit; who would those go to?
3	Q. Well, let me just throw some names out	3	A. Come back to me.
4	at you. Did Mark Vainisi?	4	Q. And they would come by e-mail. Was it
5	A. I don't remember.	5	just from an ordinary lab person at Theranos that
6	Q. How about Wade Miquelon?	6	they came from or did they come from Sunny and
7	A. Miquelon.	7	Elizabeth, who sent them?
8	Q. Miquelon, I'm sorry.	8	A. No, there was a person at Theranos.
9	A. Yes, I believe he did.	9	There was a -- there was a password protected,
10	Q. How about Brad Wasson?	10	HIPAA compliant system that was set up that I
11	A. I believe he did.	11	could access to get that.
12	Q. How about Greg Wasson?	12	Q. Okay. And so, I think you mentioned
13	A. I don't remember about Greg Wasson.	13	in response to questions from Ms. Gardner that
14	Q. Okay. Kim Romanski?	14	you actually were pipetting blood into the
15	A. Yes.	15	cartridge; is that right?
16	Q. And did any of them express concerns	16	A. In the beginning, yes.
17	to you about the results that came back on the	17	Q. Okay. So, that actually anticipates
18	tests?	18	my question. Was there a point in time when you
19	A. No.	19	started using a nanotainer?
20	Q. And by the way, you mentioned earlier	20	A. Yes.
21	that when you ran the tests, the results would	21	Q. And did the nanotainers work
22	come to you. I assume that was true for the unit	22	satisfactorily for you?
23	that was in your office; is that correct, that	23	A. They worked for me.
24	the test results would come back to you?	24	Q. And so, physically how would this
25	A. Yes.	25	work? You prick your finger and collect the

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<p style="text-align: right;">Page 245</p> <p>1 blood into the nanotainer, then what would you 2 do? 3 A. Put it into the cartridge. 4 Q. And is that just a simple matter of 5 inserting it into the cartridge? 6 A. Yes. 7 Q. And then what do you do with the 8 cartridge? 9 A. Put it in the machine, push the 10 button. 11 Q. And then it makes the whirring sound 12 and that's it; is that right? 13 A. Yes. 14 Q. And then what do you do with the 15 cartridge after that? 16 A. Throw it in the trash. 17 Q. And typically how long was it before 18 you got results back? 19 A. Usually the next day. 20 Q. Did you ever request it faster than 21 that? 22 A. I don't remember. 23 Q. Okay. By the way, you told us that 24 you had examined upwards of, I think you may have 25 said as many as 200 different companies that were</p>	<p style="text-align: right;">Page 246</p> <p>1 operating in this space. 2 A. Yes. 3 Q. Was anybody else doing the sort of 4 stuff that you saw that machine doing? 5 MS. KORKHOV: Objection. 6 THE WITNESS: Yes. 7 BY MR. RUMMAGE: 8 Q. And who else was doing that sort of 9 thing? 10 A. I don't remember the name of the 11 company, but there was a company that we visited 12 that was doing tests in a -- in a -- lab on a 13 chip test. That's the technology. 14 Q. Okay. And what distinguished the two 15 in your mind? 16 A. That company you're talking about? 17 Q. Yes. 18 A. And Theranos? 19 Q. Yes. 20 A. That company primarily did one test. 21 Q. And what test was that? 22 A. HIV. 23 Q. And so, they didn't do general 24 chemistry tests? 25 A. Correct.</p>
<p style="text-align: right;">Page 247</p> <p>1 Q. They didn't do immunity assays? 2 A. Correct. 3 Q. Okay. And by the way, did you ever 4 get your test results -- strike that. 5 Did you ever draw your blood, put 6 it in the analyzer, send the stuff off to 7 Theranos, and then go across the street to 8 Labcorp or Quest and do the same test just to 9 see? 10 A. No. 11 Q. Why not? 12 A. Because I got routine tests a lot at 13 those locations. I didn't need to do that 14 because it was in a similar vein. 15 Q. All right. And did you -- did you 16 check the results that came back to you from 17 Theranos kind of mentally to see whether they 18 seemed consistent with your own health patterns? 19 A. Yes. 20 MS. KORKHOV: Objection. 21 BY MR. RUMMAGE: 22 Q. And what did you conclude? 23 A. That they were similar. 24 Q. Okay. Did you ever do any sort of 25 testing of your own to maybe test somebody that</p>	<p style="text-align: right;">Page 248</p> <p>1 you knew was unhealthy, that might have an out of 2 range value on one of the tests you received? 3 A. No. 4 Q. Nothing prevented you from doing that, 5 though, right? 6 A. Well, I wouldn't test it on anybody 7 except a Walgreens employee. And as a medical 8 person, I didn't know the medical history of most 9 of Walgreens employees because that was HIPAA 10 compliant. 11 Q. Okay. But nothing Theranos did 12 prevented you from doing something like that, 13 right? 14 A. Correct. 15 Q. And nothing Theranos did prevented you 16 from running comparative tests, right? 17 A. Correct. 18 Q. Okay. And when you received results 19 back from Theranos, you never received any 20 indication that those results had somehow been 21 doctored or made up, did you? 22 A. No. 23 Q. Okay. Let's -- I want to put a little 24 bit of framework around the time. 25 MR. RUMMAGE: Do you have tab 7?</p>

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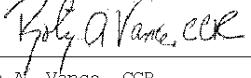
	Page 329		Page 330
1	advance at Walgreens stores?	1	told before their blood draw what kind of blood
2	A. I -- I don't think they did.	2	draw they would get, correct?
3	Q. So, to your knowledge, they were --	3	A. Yes.
4	they were all walk-in patients?	4	Q. And I just want to confirm that the
5	A. I can't remember. I think there	5	telling of the kind of blood draw they would get
6	was -- there was a big discussion around that, so	6	may have happened immediately before the blood
7	I just don't remember.	7	draw; is that right? Like a patient could arrive
8	Q. Did it happen, to your knowledge, that	8	at Walgreens, be sitting with a phlebotomist or a
9	somebody would walk into a Walgreens expecting a	9	technician, and at that point when they're in the
10	finger-stick blood draw and then receive a venous	10	chair ready for their blood draw, learn that the
11	blood draw?	11	draw would be different?
12	MS. SEAGER: Object to form.	12	A. I don't know when that occurred, when
13	THE WITNESS: I don't remember that	13	that telling occurred.
14	happening.	14	Q. All right. I have no further
15	BY MS. GARDNER:	15	questions. Thank you.
16	Q. You don't remember hearing about that?	16	A. Okay.
17	A. No.	17	MR. SUTRO: Thank you all.
18	Q. Is it possible that that happened?	18	VIDEOGRAPHER: This concludes the
19	MR. RUMMAGE: Object to the form.	19	video deposition of Dr. Jay Rosan in the
20	THE WITNESS: I think anything is	20	matter of Arizona Theranos litigation.
21	possible.	21	The time is 6:24 p.m. and we are off the
22	BY MS. GARDNER:	22	record.
23	Q. Great. I'm asking because earlier I	23	- - -
24	understood you to testify in response to	24	(Witness excused.)
25	Mr. Rummage's questions that a patient was always	25	(Deposition concluded at approximately 6:24 p.m.)
	Page 331		Page 332
1	C E R T I F I C A T I O N	1	DECLARATION UNDER PENALTY OF PERJURY
2		2	Case Name: In re Arizona Theranos, Inc. Litigation
3	I hereby certify that the	3	Date of Deposition: 05/16/2019
4	proceedings, evidence, and objections noted	4	Job No.: 10054876
5	herein are contained fully and accurately in the	5	
6	stenographic notes taken by me upon the foregoing	6	I, DR. JAY ROSAN, hereby certify
7	matter, and that this is a correct transcript of	7	under penalty of perjury under the laws of the State of
8	the same.	8	_____ that the foregoing is true and correct.
9	Further, that if the foregoing pertains to	9	Executed this _____ day of
10	the original transcript of a deposition in a federal	10	_____, 2019, at _____.
11	case, before completion of the proceedings, review of	11	
12	the transcript [X] was [] was not requested.	12	
13		13	
14	Robin A. Vance, CCR	14	DR. JAY ROSAN
15	CCR-NJ License No. XI 02131	15	
16	Notary Public	16	NOTARIZATION (If Required)
17	City of Philadelphia, Philadelphia County	17	State of _____
18	Commission Expires 8/25/22	18	County of _____
19	(The foregoing certification of this	19	Subscribed and sworn to (or affirmed) before me on
20	transcript does not apply to any reproduction of	20	this _____ day of _____, 20____,
21	the same by any means, unless under the direct	21	by _____, proved to me on the
22	control and/or supervision of the certifying	22	basis of satisfactory evidence to be the person
23	reporter.)	23	who appeared before me.
24		24	Signature: _____ (Seal)
25		25	

EXHIBIT 2

Message

From: Wayne.Prince@Walgreens.com [Wayne.Prince@Walgreens.com]
Sent: 9/29/2010 3:10:26 PM
To: Daniel Young [/o=theranos organization/ou=first administrative group/cn=recipients/cn=dyoung]
CC: Renaat.VanDenHooff@Walgreens.com; Sunny Balwani [/o=theranos organization/ou=first administrative group/cn=recipients/cn=sbalwani]
Subject: RE: today's demo

Sweet! Then all is well in the world.

Wayne Prince, PMP
Project Manager, Business Process Re-engineering
Corporate Innovation Team
847.964.8973 (w)
[REDACTED] (c)
<http://www.linkedin.com/in/wayneprince>

"Daniel Young" <dyoung@theranos.com>
09/29/2010 10:09 AM
To <Wayne.Prince@Walgreens.com>
cc "Sunny Balwani" <sbalwani@theranos.com>,
<Renaat.VanDenHooff@Walgreens.com>
Subject RE: today's demo

Yes, we have heartbeats for devices 347 and 342.

Thanks,
Daniel

From: Wayne.Prince@Walgreens.com [mailto:Wayne.Prince@Walgreens.com]
Sent: Wednesday, September 29, 2010 7:57 AM
To: Daniel Young
Cc: Sunny Balwani; Renaat.VanDenHooff@Walgreens.com
Subject: RE: today's demo

Daniel,

Ok, I set up all the machines.

All have booted and assumed optimal operating temperature.

I removed the cartridge from 313. We made sure to transport it in the vertical position. I have since powered it down and boxed it up as that is the one we will ship back to you.

Do we have heartbeats on the other two?

Thanks,

Wayne Prince, PMP
Project Manager, Business Process Re-engineering
Corporate Innovation Team
847.964.8973 (w)
[REDACTED] (c)
<http://www.linkedin.com/in/wayneprince>
"Daniel Young" <dyoung@theranos.com>

09/29/2010 09:08 AM

To <Wayne.Prince@Walgreens.com>
cc "Sunny Balwani" <sbalwani@theranos.com>
Subject RE: today's demo

I'm glad it was a success. Thanks for keeping us updated.

-Daniel

From: Wayne.Prince@Walgreens.com [mailto:Wayne.Prince@Walgreens.com]
Sent: Wednesday, September 29, 2010 7:04 AM
To: Daniel Young
Cc: Sunny Balwani
Subject: Re: today's demo

Daniel,

The kickoff was a success.

The demos went fine. We shut the machines down in the middle of the assay. We spoke to Sunny about this last night. We had to move the machines back to our building that night and we didn't want to wait for the assays to complete and the business day was over.

Our expectation is that we will not get any usable results from the assays that were started late yesterday afternoon.

I am going to set the machines back up now. I will contact you once they seem to be ready to confirm connectivity.

Thanks,

Wayne Prince, PMP
Project Manager, Business Process Re-engineering
Corporate Innovation Team
847.964.8973 (w)

[REDACTED] (c)
<http://www.linkedin.com/in/wayneprince>
"Daniel Young" <dyoung@theranos.com>
09/28/2010 06:08 PM

To <Wayne.Prince@Walgreens.com>
cc
Subject today's demo

Hi Wayne,

I hope the kickoff was a success and that the demo went smoothly for you. We have noted that device 342 has had spotty reception since the change in location today and we are concerned that all the data may not get transferred from this afternoon. Is it possible to power this device "on" again in the old location to ensure that all the data is transferred? If so, please let me know when you plan to do this.

Thanks!

Daniel Young, PhD
Director, Theranos Operating System and Computational Biosciences
Theranos, Inc
3200 Hillview Avenue
Palo Alto, Ca 94304
650-470-6119

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Theranos, Inc., 3200 Hillview Avenue, Palo Alto, CA, 94304
650-838-9292 www.theranos.com

EXHIBIT 3

Message

From: Sunny Balwani [/O=Theranos Organization/OU=First Administrative Group/CN=Recipients/CN=SBALWANI]
Sent: 10/13/2010 3:39:29 PM
To: Daniel Young [/o=theranos organization/ou=first administrative group/cn=recipients/cn=dyoung]
Subject: Fwd: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

Fyi

Sent from my iPhone

Begin forwarded message:

From: Jay.Rosan@Walgreens.com
Date: October 13, 2010 5:49:07 AM PDT
To: Sunny Balwani <sbalwani@theranos.com>
Subject: Re: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

Sunny, that is great but there is still one that I have not received 347.101011.02
Dr. Jay Rosan
VP Health Innovation
Walgreens
484-351-3020 o; [REDACTED]
jay.rosan@walgreens.com

From: Sunny Balwani <sbalwani@theranos.com>
To: Jay Rosan <Jay.Rosan@Walgreens.com>
Date: 10/12/2010 07:43 PM
Subject: Re: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

Dr. jay. We have automated this so now you don't need to send me emails for this. Daniel gets automotified and once our CMO has looked over the results, you will get the results automatically. If it doesn't work, you are always welcome to shoot me an email of course.

Thanks.

On 10/12/10 6:42 AM, "Jay Rosan" <Jay.Rosan@Walgreens.com> wrote:

Tx - how do we make this just automatic so that I don't have to bother you for results - I did another one later in the day.
Dr. Jay Rosan
VP Health Innovation
Walgreens
484-351-3020 o; [REDACTED] c
jay.rosan@walgreens.com

From: Sunny Balwani <sbalwani@theranos.com>
To: Jay Rosan <Jay.Rosan@Walgreens.com>
Date: 10/11/2010 02:26 PM
Subject: RE: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

Dr. Jay

Today's result was added to the attached summary. PASSWORD unchanged.

Thanks.
SRB.

From: Sunny Balwani
Sent: Monday, October 11, 2010 10:42 AM
To: Daniel Young
Cc: Elizabeth Holmes
Subject: Fwd: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

Daniel. Can u get the results and email to me asap. Thanks

Sent from my iPhone

Begin forwarded message:

From: <<mailto:Jay.Rosan@Walgreens.com>> <Jay.Rosan@Walgreens.com> <Jay.Rosan@Walgreens.com>
Date: October 11, 2010 7:22:35 AM PDT
To: Sunny Balwani <sbalwani@theranos.com> <sbalwani@theranos.com>
Subject: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

I would tell you the name but that would not be right but it is one of the highest individuals in the company. He is expecting me to walk in with the results within the hour.

J

Dr. Jay Rosan
VP Health Innovation
Walgreens
484-351-3020 o; [REDACTED]
jay.rosan@walgreens.com <jay.rosan@walgreens.com>

----- End of Forwarded Message[attachment "Demo Data 10-11-2010.pdf" deleted by Jay Rosan/Corp/Walgreens]

EXHIBIT 4

Message

From: Patty.Haworth@Walgreens.com [Patty.Haworth@Walgreens.com]
Sent: 4/29/2011 6:41:34 PM
To: Daniel Young [dyoung@theranos.com]
CC: Jay.Rosan@Walgreens.com; Sunny Balwani [sbalwani@theranos.com]
Subject: Re: Asthma Test - Patty Haworth

No further questions. Just wanted to make sure the device was working as expected.

Thank you for your quick response.

Patty

----- Original Message -----

From: Daniel Young [dyoung@theranos.com]
Sent: 04/29/2011 06:38 PM GMT
To: Patty Haworth
Cc: Jay Rosan; Sunny Balwani <sbalwani@theranos.com>
Subject: RE: Asthma Test - Patty Haworth

These data were sent to Dr. Jay on Tuesday. Dr. Jay has confirmed that he received the data.

Please let me know if you have any further questions.

Thanks,
Daniel

-----Original Message-----

From: Patty.Haworth@Walgreens.com [mailto:Patty.Haworth@Walgreens.com]
Sent: Friday, April 29, 2011 11:37 AM
To: Daniel Young
Cc: Jay.Rosan@Walgreens.com; Sunny Balwani
Subject: Fw: Asthma Test - Patty Haworth

Hi Daniel.

Any news? Thank you.

Patty

----- Original Message -----

From: Jay Rosan
Sent: 04/26/2011 10:24 PM EDT
To: Daniel Young; PhD
Cc: Patty Haworth
Subject: Fw: Asthma Test - Patty Haworth Dan I did not get any results on this. Did you get this and if not are you getting a heartbeat?

Dr. Jay Rosan
VP Health Innovation
Walgreens
484-351-3020 o;
jay.rosan@walgreens.com

----- Forwarded by Jay Rosan/Corp/Walgreens on 04/26/2011 10:23 PM -----

From: Patty Haworth/Corp/Walgreens
To: Jay Rosan/Corp/Walgreens@WALGREENS
Cc: Barbara Flohr/Corp/Walgreens@Walgreens

Date: 04/22/2011 04:35 PM

Subject: Asthma Test - Patty Haworth

Dr. Jay,

I just did a test on myself today to make sure the machine is still working. The ID is 271.0422.01. It was the Asthma test. My cell phone number is listed below.

Please let me know if you need additional information about this.

Thank you.

Patty Haworth
Program Manager, Corporate Innovation Team Walgreens
1415 Lake Cook Road MS L139
Deerfield, IL 60015
Phone: 847-964-8047

patty.haworth@walgreens.com

Consider the environment before printing this email.

EXHIBIT 5

FEDERAL BUREAU OF INVESTIGATION

Date of entry 12/18/2019

DR. JAY ROSAN was interviewed at San Francisco United States Attorneys Office. United States Postal Inspection Service (USPIS) Postal Inspector Christopher McCollow was present for the interview. Additionally, Assistant United States Attorney (AUSA) Robert Leach was present in-person. AUSA Jeffrey Schenk was present via telephone. Kristen Sawyer and Stephen Sutro, Duane Morris, were present representing DR. ROSAN. After being advised of the identities of the interviewers and the nature of the interview, DR. ROSAN provided the following information:

DR. ROSAN graduated from Albright College for his undergraduate degree and the Philadelphia College of Medicine. DR. ROSAN was a Medical Doctor for family practice. DR. ROSAN practiced for about 15 years and then joined HMO Pennsylvania around 1982. DR. ROSAN worked there for 20 years. The company changed its name to US Healthcare. DR. ROSAN left when the company was purchased by Aetna. DR. ROSAN joined CHD Meridian Healthcare, a disease management company. Eventually the company began providing full healthcare centers for employees of companies. DR. ROSAN joined a new management team at the time. The company was purchased by WALGREENS (WAG) in 2008 or 2009. DR. ROSAN became the Vice President of Health Innovation for WAG. DR. ROSAN worked on the innovation team with COLIN WATTS as the Chief of Innovation. WATTS worked at Campbells, Johnson and Johnson, and Weight Watchers either before or after WALGREENS. The innovation team was charged with looking at companies who were changing where healthcare was going in the future.

DR. ROSAN left WAG in 2014. He and the CEO of CHD formed Medovation to help startups primarily in the healthcare space. They were working with five companies.

DR. ROSAN's first engagement with THERANOS was in early 2010.

[Agent Note: DR. ROSAN was shown documents Bates numbered THER-2436909 to

Investigation on 09/20/2019 at San Francisco, California, United States (In Person)

File # 318A-SF-7315857 Date drafted 09/23/2019

by CAMERON W W PURVES

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318A-SF-7315857

Continuation of FD-302 of (U) Interview of Dr. Jay Rosan , On 09/20/2019 , Page 8 of 11

[Agent Note: DR. ROSAN was shown documents Bates numbered WAG-TH-DOJ-00006863 to WAG-TH DOJ-00006864. This set of documents will be maintained in the 1A section of this case file.]

DR. ROSAN wanted approval by the government before moving forward. DR. ROSAN did not think HOLMES was pushing back on this, but DR. ROSAN wanted to push forward. DR. ROSAN did not think HOLMES was saying government approval was not necessary. DR. ROSAN discussed lab developed tests (LDTs) with BALWANI and HOLMES. THERANOS was thinking of a rental model with SAFEWAY, but WALGREENS did not think that was a good idea.

[Agent Note: DR. ROSAN was shown documents Bates numbered WAG-TH-DOJ-00000181 to WAG-TH DOJ-00000210. This set of documents will be maintained in the 1A section of this case file.]

Project Normandy was taking blood draws in store and testing them at a THERANOS location.

The slide on document Bates numbered WAG-TH-DOJ-00000189 was describing the process. The PSC was the patient side of the process. THERANOS was using their machines to run the tests. DR. ROSAN expected the tests were run on the THERANOS devices. The use of Siemens or similar machines would not have been in line with THERANOS' claims of more efficiency and higher quality machines.

WAG-TH-DOJ-00000209

DR. ROSAN had a THERANOS device in his office. Initially, DR. ROSAN had a prototype device and then received a second device to replace the first device. The second device seemed similar to the first device. DR. ROSAN never did comparison tests between the THERANOS device and competitors. The testing of WALGREENS executives was done on a THERANOS machine. DR. ROSAN never saw THERANOS financial statements. DR. ROSAN asked for them and saw other people ask for them, but he did not know if anybody from WALGREENS ever got them. HOLMES and BALWANI said they would provide the financial statements, but DR. ROSAN never got them.

[Agent Note: DR. ROSAN was shown documents Bates numbered WAG-TH-DOJ-00000048 to WAG-TH DOJ-00000085. This set of documents will be maintained in the 1A section of this case file.]

EXHIBIT 6

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION

4
5 UNITED STATES OF AMERICA,)
6 PLAINTIFF,) CR-18-00258-EJD
7 VS.) SAN JOSE, CALIFORNIA
8 RAMESH "SUNNY" BALWANI,) APRIL 15, 2022
9 DEFENDANT.) VOLUME 18
-----) PAGES 2725 - 2841

10
11 TRANSCRIPT OF TRIAL PROCEEDINGS
12 BEFORE THE HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE

13 A P P E A R A N C E S:

14 FOR THE PLAINTIFF: UNITED STATES ATTORNEY'S OFFICE
15 BY: JOHN C. BOSTIC
JEFFREY B. SCHENK
16 150 ALMADEN BOULEVARD, SUITE 900
SAN JOSE, CALIFORNIA 95113

17 BY: ROBERT S. LEACH
KELLY VOLKAR
18 1301 CLAY STREET, SUITE 340S
OAKLAND, CALIFORNIA 94612

19 (APPEARANCES CONTINUED ON THE NEXT PAGE.)

20 OFFICIAL COURT REPORTER:

21 IRENE L. RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074

22
23 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER
24
25

11:26AM 1 INTERVIEW WITH MS. WALSH A FEW MINUTES AGO?

11:26AM 2 A. YES.

11:26AM 3 Q. YOU TESTIFIED ON CROSS-EXAMINATION THAT, GENERALLY

11:26AM 4 SPEAKING, MS. HOLMES WAS THE FACE OF THE COMPANY; IS THAT

11:26AM 5 CORRECT?

11:26AM 6 A. YES.

11:26AM 7 Q. AND YOU WERE ALSO ASKED ABOUT WHETHER MR. BALWANI WAS

11:26AM 8 PRESENT FOR MS. HOLMES'S INTERVIEW FOR THIS ARTICLE.

11:27AM 9 DO YOU RECALL THAT?

11:27AM 10 A. YES.

11:27AM 11 Q. COULD I DIRECT YOUR ATTENTION TO PAGE 21 OF THAT ARTICLE,

11:27AM 12 THE TOP PARAGRAPH. I'LL JUST ASK YOU TO LOOK IT OVER. THE

11:27AM 13 PAGE NUMBERS ARE AT THE VERY BOTTOM.

11:27AM 14 A. OKAY. I SEE THAT.

11:27AM 15 Q. DOES THAT REFRESH YOUR RECOLLECTION THAT MR. BALWANI WAS

11:27AM 16 ALSO INTERVIEWED FOR THIS "FORTUNE" ARTICLE?

11:27AM 17 A. YES.

11:27AM 18 Q. OKAY. YOU CAN PUT THAT ASIDE. THANK YOU.

11:27AM 19 DO YOU RECALL DISCUSSING WITH MR. BALWANI'S COUNSEL THE

11:27AM 20 WALGREENS RELATIONSHIP AND THE FACT THAT WALGREENS APPARENTLY

11:27AM 21 HAD A THERANOS DEVICE IN ITS POSSESSION?

11:27AM 22 A. YES.

11:27AM 23 Q. DO YOU RECALL ANY OF THE DETAILS ABOUT WHEN THAT DEVICE

11:27AM 24 WAS PROVIDED TO WALGREENS OR FOR WHAT PURPOSE?

11:28AM 25 A. I DON'T.

11:28AM 1 Q. DO YOU KNOW, FOR EXAMPLE, WHETHER THAT DEVICE WAS CAPABLE
11:28AM 2 OF RUNNING ANY ASSAYS?
11:28AM 3 A. NO.
11:28AM 4 Q. DO YOU KNOW WHETHER THERANOS PROVIDED THE CARTRIDGES AND
11:28AM 5 REAGENTS THAT WOULD BE NECESSARY TO ACTUALLY USE THAT DEVICE AS
11:28AM 6 AN ANALYZER?
11:28AM 7 A. I DON'T.
11:28AM 8 Q. DO YOU KNOW WHETHER WALGREENS WAS PERMITTED TO EXAMINE THE
11:28AM 9 DEVICE, FOR EXAMPLE, TO OPEN IT UP AND LOOK AT THE COMPONENTS?
11:28AM 10 A. I'M NOT AWARE OF THOSE SPECIFIC CONVERSATIONS, BUT I
11:28AM 11 ASSUME THAT THEY WOULD NOT BE ALLOWED TO DO THAT.
11:28AM 12 Q. WHAT MAKES YOU ASSUME THAT THAT WOULDN'T BE PERMITTED?
11:28AM 13 A. IN MY EXPERIENCE, NO ONE OUTSIDE OF THE COMPANY WAS
11:28AM 14 PERMITTED TO DO THAT.
11:28AM 15 Q. SPEAKING OF THE COMPANY'S RELATIONSHIPS WITH OUTSIDE
11:29AM 16 PARTNERS, DO YOU RECALL DISCUSSING WITH MS. WALSH SOME OF THE
11:29AM 17 CONTACTS THAT THE COMPANY HAD WITH PHARMACEUTICAL COMPANIES?
11:29AM 18 A. YES.
11:29AM 19 Q. OKAY. AND YOU WERE SHOWN SOME INSTANCES IN 2013 WHERE
11:29AM 20 THERE WERE EMAILS AND DISCUSSIONS ABOUT SOME POSSIBLE FUTURE
11:29AM 21 DEALINGS.
11:29AM 22 DO YOU RECALL THAT GENERALLY?
11:29AM 23 A. YES.
11:29AM 24 Q. SITTING HERE TODAY, DO YOU HAVE A RECOLLECTION OF ANY OF
11:29AM 25 THOSE CONTACTS ACTUALLY TURNING INTO REAL REVENUE GENERATING

11:57AM 1 Q. AND SO TO THE EXTENT THAT HE WAS IN CHARGE OF THAT
11:57AM 2 CLINICAL LAB, IT WAS RELATED TO THE OPERATIONS; RIGHT?
11:57AM 3 A. RIGHT.
11:57AM 4 Q. THE GOVERNMENT ALSO ASKED YOU ABOUT THE DEVICE THAT WAS
11:57AM 5 SENT TO WALGREENS.
11:57AM 6 DO YOU REMEMBER THAT?
11:57AM 7 A. YES.
11:57AM 8 Q. AND WHETHER THE -- THAT DEVICE COULD RUN ASSAYS; RIGHT?
11:57AM 9 A. RIGHT.
11:57AM 10 Q. AND WHETHER WALGREENS HAD CARTRIDGES TO RUN THOSE ASSAYS;
11:57AM 11 RIGHT?
11:57AM 12 A. RIGHT.
11:57AM 13 Q. COULD WE PULL UP EXHIBIT 20550, WHICH IS IN EVIDENCE.
11:58AM 14 AND THIS IS AN EMAIL FROM YOU TO MR. BALWANI?
11:58AM 15 A. RIGHT.
11:58AM 16 Q. AND IN THE SECOND PARAGRAPH YOU SAY, "THERE ARE CURRENTLY
11:58AM 17 40 READERS IN THE FIELD FOR THE ABA TRIAL"; RIGHT?
11:58AM 18 A. YES.
11:58AM 19 Q. AND THIS IS THE EMAIL THAT CONTAINS THE STATEMENT ABOUT
11:58AM 20 WALGREENS HAVING ONE OF THOSE READERS; CORRECT?
11:58AM 21 A. CORRECT.
11:58AM 22 Q. AND A READER IS A DEVICE; RIGHT?
11:58AM 23 A. RIGHT.
11:58AM 24 Q. AND WITH REGARD TO THE 40 READERS IN THE FIELD FOR THE ABA
11:58AM 25 TRIAL, THEY ALL HAD CARTRIDGES; RIGHT?

11:58AM 1 A. RIGHT.

11:58AM 2 Q. AND THEY WERE ALL RUNNING TESTS; RIGHT?

11:58AM 3 A. RIGHT.

11:58AM 4 Q. AND SO DO YOU HAVE ANY REASON TO BELIEVE THAT THE DEVICE

11:58AM 5 THAT WALGREENS HAD, DID NOT HAVE CARTRIDGES?

11:58AM 6 A. I DON'T KNOW.

11:58AM 7 Q. AND DO YOU HAVE ANY REASON TO BELIEVE THAT IT COULD NOT

11:58AM 8 RUN TESTS?

11:58AM 9 A. NO.

11:58AM 10 Q. OKAY.

11:59AM 11 MS. WALSH: MAY I HAVE ONE MOMENT, YOUR HONOR?

11:59AM 12 THE COURT: YES.

11:59AM 13 (DISCUSSION AMONGST DEFENSE COUNSEL OFF THE RECORD.)

11:59AM 14 MS. WALSH: NO FURTHER QUESTIONS.

11:59AM 15 THE COURT: MR. BOSTIC?

11:59AM 16 MR. BOSTIC: NOTHING FURTHER, YOUR HONOR.

11:59AM 17 THE COURT: MAY THIS WITNESS BE EXCUSED?

11:59AM 18 MR. BOSTIC: YES, YOUR HONOR.

11:59AM 19 MS. WALSH: YES, YOUR HONOR.

11:59AM 20 THE COURT: YOU'RE EXCUSED, SIR. THANK YOU VERY

11:59AM 21 MUCH.

11:59AM 22 THE WITNESS: THANK YOU.

11:59AM 23 THE COURT: YOU CAN JUST LEAVE THE BINDERS THERE.

11:59AM 24 THEY'LL BE COLLECTED.

11:59AM 25 LADIES AND GENTLEMEN, WE'LL TAKE OUR WEEKEND BREAK NOW. I

1
2
3 CERTIFICATE OF REPORTER
4
5
6

7 I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED
8 STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA,
9 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
10 CERTIFY:

11 THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS
12 A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
13 ABOVE-ENTITLED MATTER.

14 
15

16

IRENE RODRIGUEZ, CSR, RMR, CRR
17 CERTIFICATE NUMBER 8074
18

19 DATED: APRIL 15, 2022
20
21
22
23
24
25